

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO – EASTERN DIVISION**

In re: Butterfliez Services, LLC	:	Case No. 15-50914
	:	
Debtor	:	Chapter 11
	:	
	:	Judge Preston

**OBJECTION OF CREDITOR STATE OF OHIO, DEPARTMENT OF JOB AND
FAMILY SERVICES TO CONFIRMATION OF CHAPTER 11 PLAN [DOCKET NO. 37]**

Now comes Attorney General Mike DeWine, acting through special counsel duly appointed as provided in Ohio Revised Code Section 109.08, on behalf of Creditor, the State of Ohio, Department of Job and Family Services (“ODJFS”), and objects to the confirmation of Debtor’s proposed Chapter 11 Plan of Reorganization (the “Plan”) [Docket No. 37] on the grounds that the Plan fails to provide that DOT will be paid the total value of the claim as of the date of the order for relief as required by 11 U.S.C. 1129(a)(9)(C)(i). A Memorandum further supporting this Objection is attached hereto.

Respectfully submitted,

/s/ Brian M. Gianangeli
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Attorney for the State of Ohio,
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MEMORANDUM IN SUPPORT

ODJFS holds a priority tax claim in this matter. Its proof of claim no. as amended on June 16, 2015 lists unpaid unemployment compensation taxes and interest owed by Debtor in the amount of \$22,883.57 which are entitled to priority treatment under 11 U.S.C. 507(a)(8)(E). In the Plan, Debtor proposes to pay this priority portion of ODJFS's claim in monthly payments of \$449.00 beginning on the twentieth day of the month following the effective date of the Plan, Docket No. 37, §4.01. However, a requirement for confirmation under 11 U.S.C. 1129(a)(9)(C)(i) is that the payments to ODJFS be "of a total value, as of the effective date of the plan, equal to the allowed amount of such claim." In other words, when priority tax claims are paid through deferred payments, "the debtor must then pay post-confirmation interest to give the creditor a total claim after the deferred payments which is equal to the value of the claim as of the effective date." U.S. v. White Farm Equipment Co., 157 B.R. 117, 123 (N.D. Ill 1993). See also In re Trevarrow Lanes, Inc., 183 B.R. 475, 481 (E.D. MI Bankr. 1995).

Debtor's Plan neither provides that ODJFS be paid the full value of its claim as of the effective date nor mentions any interest rate to be used in determining the full value. Debtor's proposed monthly payment amount will require fifty-one months to complete repayment of just the principal amount of ODJFS's priority claim. Based on the effective date definition in §8.02 of the Plan, Debtor's final payment will be on or after February 20, 2020, the deadline for repayment of priority tax claims set by 11 U.S.C. 1129(a)(9)(C)(ii). This repayment time frame makes clear that Debtor's Plan does not contemplate post confirmation interest on the priority claim of ODJFS as required by 11 U.S.C. 1129(a)(9)(C)(i).

WHEREFORE, for the foregoing reasons, ODJFS objects to Debtor's Plan and asks this Court to deny confirmation of the same.

Respectfully submitted,

/s/ Brian M. Gianangeli

Charles A. Mifsud (0070498)

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served by regular U.S. Mail this 12th day of November, 2015, upon the following:

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